

# United States District Court

for the  
Western District of New York

United States of America

v.

Case No. 23-MJ- 4115

ANDREW HENDRIE,

*Defendants.*

## CRIMINAL COMPLAINT

I, VINCENT RE, the complainant in this case, state that the following is true to the best of my knowledge and belief.

The defendant during the week of June 12, 2023, in the City of Rochester, County of Monroe, Western District of New York, violated Title 18, United States Code, Section 922(o) (possession and transfer of machinegun), and 26 United States Code, Section 5861(d) (possession of unregistered firearm).

This Criminal Complaint is based on these facts:

SEE ATTACHED AFFIDAVIT OF VINCENT RE, Task Force Officer, ATF

☒ Continued on the attached sheet.



*Complainant's signature*

VINCENT RE, Task Force Officer, ATF

*Printed name and title*

Affidavit submitted electronically by email in .pdf format.  
Oath administered, and contents and signature, attested  
to me telephonically pursuant to Fed. R. Crim. P. 4.1 and  
4 (d) on July 20, 2023.



*Judge's signature*

City and State: Rochester, New York

HONORABLE MARIAN W. PAYSON  
UNITED STATES MAGISTRATE JUDGE

*Printed name and title*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

23 MJ-4115

-v-

AFFIDAVIT

Andrew HENDRIE,

Defendant

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State of New York    )  
County of Monroe    ) ss  
City of Rochester    )

I, Vincent Re, affirm to the following facts:

1. I have been a Deputy Sheriff since 2003. Since becoming a Deputy Sheriff, I have worked with federal, state, and local law enforcement officers on numerous investigations involving narcotics trafficking, and firearms offenses, and have assisted in a number of successful investigations of drug distribution networks and firearms trafficking organizations. From 2018 until 2022, I was assigned to the Drug Enforcement Administration (DEA) Task Force in Rochester, NY as a Task Force Officer. There, I was involved in the execution of search and seizure warrants on drug trafficking locations, made arrests for violations of state and federal drug and firearms laws, and authored supporting affidavits in support of said court authorized search and

seizure warrants. Furthermore, I have participated in the investigation of numerous drug trafficking conspiracies and cases involving the use of court-authorized interceptions of wire and electronic communications and authored supporting affidavits in support of said court-authorized interceptions. I am currently assigned to the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) Violent Crimes Task Force and am assigned to the Rochester, NY Field Office as a Task Force Officer. I further state that I am the kind of Task Force Officer as delineated in Title 18, United States Code, Section 3051.

**PURPOSE OF AFFIDAVIT**

2. This affidavit is submitted in support of a criminal complaint charging Andrew HENDRIE, (hereinafter "HENDRIE"), with violations of 18 U.S.C. § 922(o) (possession and transfer of machinegun), and 26 U.S.C. § 5861(d) (possession of unregistered firearm).
  
3. The assertions made herein are based upon my personal knowledge and information I have received through my review of this investigation, including conversations with other law enforcement agents and officers, all of which I believe to be true and accurate. Since this affidavit is being submitted for a limited purpose, I have not included each and every fact that I know concerning this investigation. Rather, I have set forth only those facts that relate to the issue of whether probable cause exists to believe that Andrew HENDRIE committed the above-described offenses.

4. During the last three months, members of the ATF Violent Crimes Task Force (hereinafter “VCTF”) along with members of the Drug Enforcement Administration Task Force (hereinafter “DEA”) have participated in a joint investigation into HENDRIE. The investigation has revealed HENDRIE has been involved in selling “auto sears” and firearm silencers to customers in the County of Monroe, Western District of New York. Auto sears – which are also known as “drop in auto sears” – are parts that, when properly inserted into or added to a firearm, convert the firearm to fully automatic. I know that an auto sear is a part or combination of parts exclusively designed and intended for use in converting a weapon to shoot automatically more than one shot, without manual reloading, by a single function of the trigger. Auto sears, therefore, qualify as machineguns under 26 U.S.C. § 5845(b).<sup>1</sup>

#### **CONTROLLED PURCHASE OF AUTO SEAR AND FIREARM SILENCERS**

5. CS-1 is a confidential informant who has been working with DEA since 2022. CS-1 pled guilty to narcotics conspiracy in United States District Court, Western District of New York, and is cooperating with the investigative team in exchange for sentencing leniency. CS-1 has provided reliable information, which has resulted in the seizure of firearms, controlled substances, and arrests for firearm and drug offenses. The information provided by CS-1 has been independently corroborated by

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<sup>1</sup> A “machinegun” is defined as “any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun . . .” 26 U.S.C. § 5845(b); *see* 18 U.S.C. § 921(a)(24).

the investigative team through physical surveillance, and other investigative means.

Members of the investigative team have determined that the information provided by CS-1 is both reliable and credible.

6. Prior to the controlled purchase described below, CS-1 was searched for controlled substances, firearms, and currency, with negative results. CS-1 was given ATF funds to make the controlled purchase. The controlled purchase was recorded by a concealed recording device.
7. During the week of June 12, 2023, members of the VCTF met with CS-1 for the purpose of conducting a controlled purchase of an auto sear and firearms silencers from HENDRIE. Leading up to the controlled purchase, CS-1 was in contact with HENDRIE via an encrypted text messaging app. During the text message conversation, HENDRIE sent a text to CS-1 stating, "I got gold buttons, two say glock on them just like 50 bucks more". In your affiant's training and experience, HENDRIE is referring to an auto sear or switch when he refers to a button. Directly after said message, HENDRIE sent a photo of gold colored auto sear with the "Glock" logo on the rear attached to the slide of a black colored handgun with a text below the photo stating "Those are five fifty". Directly after said message HENDRIE then sent a three-second video depicting a handgun with extended magazine with an auto sear attached to the slide firing live rounds in a fully automatic manner. Directly after the video, HENDRIE sent a text message stating "30 rounds in two seconds". During the same conversation, HENDRIE sent a photo depicting an auto sear which showed the "body, leg and selector" of said auto sear. Through your affiant's

training and experience, for the auto sear to be utilized as a machine gun conversion device, the body and leg are required. Directly after said photo, HENDRIE stated in a text “this gen 5 switch make sure you let me know if you need any of these the other ones fit 1,2,3,4 but 5 needs this one” It is your affiant’s belief that HENDRIE is referring to the generation models of the Glock handgun in the text.

8. On the day of the controlled purchase, utilizing the same encrypted messaging app, HENDRIE sent a text message to CS-1 stating “meet me at 185 mt. hope”. CS-1 was given ATF funds and departed for 185 Mt. Hope Avenue, Rochester, New York. CS-1 arrived and parked his/her vehicle in the parking lot. At this time, surveillance units observed HENDRIE exit the driver’s side of a 2021 Dodge Durango bearing New York license plate LAT9816 which was parked in the same parking lot. Surveillance observed HENDRIE walk to CS-1’s vehicle and enter the front passenger side. CS-1 then purchased one (1) auto sear and two (2) firearm silencers from HENDRIE. HENDRIE was then observed exiting CS-1’s vehicle and walking back to the Dodge Durango and departing the location. CS-1 then departed the location as well and drove to a predetermined location, followed by VCTF Task Force members, where the auto sear and silencers were turned over to the investigative team. Your affiant then debriefed CS-1 regarding the controlled purchase from HENDRIE. CS-1 stated HENDRIE got into the front passenger seat of CS-1’s vehicle. HENDRIE, then showed CS-1 the two silencers and explained to CS-1 that they still needed to be drilled out and after CS-1 got the barrel threaded, the silencers could just be screwed on. CS-1 said HENDRIE pointed to the auto sear

(which is commonly known as a switch) and asked CS-1 "You know about these?", to which CS-1 replied yes. HENDRIE then stated in sum and substance that he has known individuals that have robbed people with them and scared people with them. HENDRIE then, according to CS-1, pointed to the auto sear and stated, "You get the 9, you put the switch on it right, and you just run up on your man, your man will shit himself." CS-1 stated that during this conversation, HENDRIE motioned like he had a firearm and made a noise as if it was a firearm to further emphasize the switch's capability.

9. The items purchased from HENDRIE are depicted in the photo below, and consist of one (1) auto sear (the black auto sear is shown to have the "leg" protruding from the device; and two (2) firearm silencers which are silver in color.



### **CRIMINAL HISTORY**

10. In connection with this investigation, your affiant has reviewed a criminal history for HENDRIE. Your affiant has learned that HENDIRE has the following three felony convictions with one being a violent felony:



- i. On May 27, 2011, in Monroe County Court, Rochester, New York, HENDRIE was convicted upon a plea of guilty to Attempted Criminal Possession of a Weapon in the Third Degree, a class E felony, for which he was sentenced to five years probation.
- ii. On or about August 12, 2012, in Monroe County Court, Rochester, New York, HENDRIE was convicted upon a plea of guilty to Attempted Criminal Possession of a Weapon in the Second Degree, a class C violent felony, for which he was sentenced to three years imprisonment and five years post-release supervision.
- iii. On or about October 23, 2015, in Monroe County Court, HENDRIE was convicted upon a plea of guilty to Attempted Criminal Possession of a Controlled Substance in the Third Degree, a class C felony, for which he was sentenced to five years imprisonment and three years post-release supervision.

#### **ATF FIREARMS TECHNOLOGY BRANCH**

11. On July 17, 2023, your affiant spoke with ATF Firearms Enforcement Officer Nick Campbell. Campbell explained that the auto sear and silencers purchased from HENDRIE qualify as a machine gun and silencers respectively.

#### **NATIONAL FIREARMS REGISTRATION AND TRANSFER RECORD CHECK**

12. Your affiant is aware through training and experience that certain firearms are subject to restrictions of the National Firearms Act of 1934 ("NFA"). Examples of such NFA firearms include machineguns, short-barreled rifles and short-barreled shotguns. The NFA requires individuals who manufacture, transfer, or possess such weapons to register the weapons in the National Firearms Registration and Transfer Record ("NFRTR"), which is a database maintained and administered by the ATF. If an

NFA firearm is not properly registered, it is contraband. Additionally, if a properly registered NFA firearm is possessed by an unregistered individual, this is also a violation of the NFA.

13. On July 20, 2023, your affiant requested that ATF officials review the NFRTR for HENDRIE. The NFRTR records review revealed that HENDRIE is not registered to legally possess NFA firearms in the National Firearms Registration and Transfer Record, that the above-sold auto sear (machinegun) is not registered in the NFRTR, and that HENDRIE has not and does not hold a Federal Firearms License or a license to manufacture firearms.

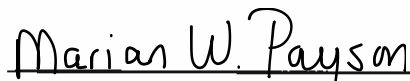
#### CONCLUSION

14. WHEREFORE, based on the above information, I submit there is probable cause to believe that during the week of June 12, 2023, in the City of Rochester, County of Monroe, in the Western District of New York, the defendant, Andrew HENDRIE, violated 18 U.S.C. § 922(o) (possession and transfer of a machinegun), and 26 U.S.C. § 5861(d) (possession of unregistered firearm).



Vincent Re, Task Force Officer  
Bureau of Alcohol, Tobacco, Firearms,  
and Explosives

Affidavit for Complaint submitted electronically  
by email in .pdf format. Oath administered, and  
contents and signature, attested to me as true and  
accurate telephonically pursuant to Fed.R.Crim. 4.1  
and 41(d)(3) on July 20, 2023.



HONORABLE MARIAN W. PAYSON  
United States Magistrate Judge